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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/589,965

08/18/2006

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129083

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EXAMINER

ROST, ANDREW J

ART UNIT

PAPER NUMBER

3753

NOTIFICATION DATE

DELIVERY MODE

08/26/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

OfficeAction25944@oliff.com
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Office Action Summary	Application No. 10/589,965	Applicant(s) SEKINE, HIROYUKI	
	Examiner Andrew J. Rost	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,5,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/5/2010</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed 8/9/2010. Claim 1 is currently amended. Claims 2, 3 and 6-11 have been canceled. No claims are newly added. Presently, claims 1, 4, 5, 12 and 13 are pending.

Response to Amendment

2. Applicant's request for reconsideration of the finality of the rejection of the last Office action (dated 5/12/2010) is persuasive and, therefore, the finality of that action is withdrawn.

Response to Arguments

3. Applicant's arguments, see page 5, the second paragraph of the remarks, filed 8/9/2010, with respect to the rejection(s) of claim(s) 1, 4, 5, 12 and 13 under 35 U.S.C. 103(a) as being unpatentable over Ko et al. (5,733,441) in view of Gliss (2,513,795) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made over Ko et al. (5,733,441) in view of Morimoto et al. (5,946,078). It is considered that the newly cited Morimoto et al. reference addresses applicant's concerns and claim language relating to the newly added second filter means filtering the foreign matter that has passed through the first filter means but has agglomerated in the flow path between the first filter means and the second filter means features. In Morimoto et al. clearly when operating properly i.e. the filters are not damaged, any particulate material filtered

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by the downstream coarse filter 66a would have to have first passed the finer upstream filter 66b and thus be a smaller size than the pore size of the upstream filter 66b and second, agglomerate, congeal, amass, etc. into a particle of larger size so as to be filtered by downstream coarse filter 66a.

4. Since New grounds of rejection were necessitated by applicant's amendment and the submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 8/5/2010 prompted the new ground(s) of rejection, the instant Office action is made final.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 4, 5, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ko et al. (5,733,441) in view of Morimoto et al. (5,946,078)

Regarding claim 1, Ko et al. disclose a fluid supply device having a flexible portion (16a), a first filter (13) on the upstream side of the flexible portion, a second filter (18) downstream of the flexible portion, and a pressurizing means (pump 12) wherein the first filter is provided between the pressurizing means and the flexible portion (figure 2). Ko et al. do not expressly disclose the filter accuracy of the second filter to be lower

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than the filter accuracy of the first filter. Morimoto et al. teach the use of a first filter (66b) located upstream of a second filter (66a) wherein the first filter (upstream filter) has fine mesh openings and the second filter (downstream filter) has coarse mesh openings wherein a space is provided between the first filter and the second filter (figure 4) in order to provide a first filter that removes foreign material of a desired size from a fluid flow through the filters so that the second filter is able to provide some filtering of the fluid flow down stream of the first filter during normal operation and when the first filter is being replaced and wherein the second filter has coarse mesh openings in order to reduce deterioration of the second filter (col. 9, line 24 to col. 10, line 9). In Morimoto et al. clearly when operating properly i.e. the filters are not damaged, any particulate material filtered by the downstream coarse filter 66a would have to have first passed the finer upstream filter 66b and thus be a smaller size than the pore size of the upstream filter 66b and second, agglomerate, congeal, amass, etc. into a particle of larger size so as to be filtered by downstream coarse filter 66a. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the filters of the Ko et al. reference with the second filter (downstream) having a lower filter accuracy than the first filter (upstream) as taught by Morimoto et al. in order to provide a filter arrangement within the fluid supply device wherein the first filter filters the fluid to remove foreign particles of a desired size and is replaceable while the second filter would filter any particles of foreign matter of a size larger than the size of the particles of foreign material filtered by the first filter and wherein the second filter will not need to be replaced and can serve as a secondary filter to the first filter. The

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foreign particles filtered by the second filter during operation of the fluid supply device would need to be an agglomeration of particles that passed through the first filter and agglomerated in the piping between the first filter and the second filter otherwise the second filter would not filter any particles of foreign matter from the fluid flow since the first filter would filter the fluid flow.

In regards to claim 4, Ko et al. disclose the flexible portion to be a bellows pipe (col. 2, line 51).

In regards to claim 5, Ko et al. disclose the pressurizing means to be a fluid pump (air pump 12, col. 2, line 49).

Regarding claims 12 and 13, Ko et al. disclose a structure of a fluid supply system that is capable of being used in a fuel gas supply system. The recitation of “incorporating the fluid supply device according to claim 1 in a reaction gas supply system” (claim 12, lines 1-2) is an intended use recitation and given no patentable weight.

Conclusion

7. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 8/5/2010 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew J. Rost whose telephone number is 571-272-2711. The examiner can normally be reached on 7:00 - 4:30 M-Th and 7:00 - 12:00 Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. J. R./
Examiner, Art Unit 3753

/John Rivell/
Primary Examiner, Art Unit 3753